IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8450 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DARIYASINH T. JAT

Versus

COMMANDANT

Appearance:

MR RK MISHRA for Petitioner

MR SP HASURKAR for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 09/05/2000

ORAL JUDGEMENT

The present application has been filed by Mr. Dariyasinh T. Jat, Head Constable Gr.I, State Reserve Police Force. The petitioner has challenged the order at Annexure issued by the Commandant, Police Organisation of the Gujarat State.

The petitioner was serving in the grade of constable prior to 1.7.82 in the scale of pay Rs. 200-260. On 1.7.82, he was sent on deputation to Police Training College, Junagadh and he was given one step promotion out of turn and was placed in the grade of Head Constable Grade-II in the pay scale of Rs. 260-350. Since the petitioner reached his basic pay of Rs. 260 in the grade of constable, his pay in the borrowing department i.e. in the Police Training College, was fixed at Rs.266/ in the grade of Head Constable Grade-II. While serving on deputation in the Police Training College, Junagadh, the petitioner was further promoted by the Police Training College in the grade of Head Constable Grade-I. In the meantime, the State Government revised the scale of pay of Government employees and the scale of pay of Rs. 300-430 as admissible to Head Constable Grade-I have been revised to Rs.1320-2040. The pay of the petitioner in the revised scale was fixed by the Police Training College at Rs. 1320, and on completion of one year on 1.8.86,his pay was fixed at Rs. 1350/.Accordingly, so long the petitioner continued on deputation in the Police Training College, he received yearly increment and last of such increment was received on 1.8.90 fixing his basic pay of Rs. 1470/. Thereafter, the petitioner was taken back to his parent department in the Police Organisation and out of turn promotion given to the petitioner while on deputation was not continued in the parent department in view of the fact that his seniors were not promoted to the post of Head Constable Grade-I when the petitioner was promoted to Head Constable Grade-I by the borrowing authority. Accordingly, on reversion to the parent department, the seniority and posting of the petitioner was restored and thereby the petitioner lose some financial benefits which he was in receipt while on deputation in the Police Training College at Junagadh. This reduction of pay in the parent department has been challenged by the petitioner.

I have heard Mr. RK Mishra learned counsel for the petitioner and Ms. Gajjar,learned AGP on behalf of learned Solicitor Mr SP Hasurkar, representing the State respondents.

Learned counsel for the petitioner submitted that the petitioner was given out of turn promotion while he was sent on deputation and, while he was continuing on deputation in the Police Training College, he was promoted to the post of Head Constable, Grade-I by the borrowing department. Learned counsel for the petitioner

accordingly submitted that while the petitioner was repatriated to his parent cadre of police department, his out of turn promotion should have been continued and the financial benefits that he was in receipt during the deputation should have been continued by the Police Organisation. I cannot agree with the submission of learned counsel for the petitioner because while on deputation, the borrowing department may promote a deputationist in accordance with their policy or availability of posts, but when such deputationist will be reverted to his parent cadre, his seniority and posting are to be regulated as per the seniority list maintained by the parent department. The out of turn promotion given to any person while on deputation cannot be continued or such financial benefits cannot be continued while the deputationist return to the parent cadre. If, there are seniors than the petitioner who have not been promoted to the post of Head Constable Grade-I, then on reversion, the petitioner has no right to continue in Head Constable Grade-I, on which promotion he got while on deputation. If such promotion order in the parent department is continued, then the employee will supercede his seniors in the parent department which could be an illegality to the seniors of the petitioner. Therefore, on reversion to the parent department, the original position of the deputationist will have to be restored and, if thereby he loses certain financial benefits, he will have to bear with this. On fixing of the pay of the petitioner at a reduced rate on reversion to the parent department do not appear to have caused any injustice to the petitioner. This is a natural consequences of reversion to his parent department and, therefore, I do not find any illegality in the order of the Government. Accordingly, I am of the view that there is no merits in the writ petition and accordingly the petition is dismissed. However,I make no order as to costs. Rule is discharged.

(P.K. SARKAR, J.)

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